

MINUTES

NEVADA STATE BOARD OF OPTOMETRY

REGULAR MEETING

September 23rd, 2005
Airport Plaza Hotel
Aviation Ballroom
1981 Terminal Way
Reno, Nevada

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 10:15 a.m. on September 23rd, 2005, in the Aviation Ballroom of the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada.

Dr. Alleman asked for public comment. There was no public comment.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President
Brad C. Stewart, O.D., Board Member
Jack Sutton, O.D., Board Member
George Bean, Board Member
Judi Kennedy, Executive Director
Mark Marsh, Esq.

Also present were:

Michelle Miller, O.D.
Jennifer Peterson, O.D.

The minutes of the Board's July 23rd, 2005, meeting were presented for approval. Dr. Sutton moved the minutes be approved as drafted. Mr. Bean seconded the motion. The vote was unanimous.

Agenda Item 3. Dr. Alleman noted the presence of Dr. Jennifer Peterson, and suggested the Board move to Tab N under the item. Dr. Alleman observed Dr. Peterson had produced, at the request of the Board, 1099's for the taxable year ending 2004, but that

she had not produced the tax return filed for that year as had been requested by the Board.

Dr. Peterson stated she did not produce the return, that it was a joint return filed with her husband, and that she was concerned about submitting a copy of a return that also contained her husband's income information. Dr. Alleman reminded Dr. Peterson the Board had sent a letter to all licensees from whom information had been requested, stating all income figures would be redacted. Dr. Alleman restated the amount of income was not the concern of the Board, and that all figures would be redacted. Dr. Stewart asked if that served to allay her concern. Dr. Peterson responded that it did, and that she was happy to furnish the document.

Dr. Peterson requested an explanation from the Board as to why employment by an ophthalmologist was an issue in Nevada. Dr. Alleman responded the prohibition was based on a long standing law. There ensued a discussion between Dr. Peterson and the Board relative to the requirements and prohibitions of business relationships between optometrists and ophthalmologists. Dr. Alleman thanked Dr. Peterson for taking the time to attend the meeting and address the Board.

Noting the presence of Dr. Michelle Miller, Dr. Alleman directed the Board's attention to Agenda Item 4, the complaint of Michelle Ippolito vs. Dr. Miller. Dr. Alleman stated the members had read the complaint, and that it appeared Ms. Ippolito was dissatisfied with the vision she got from the contacts prescribed for her by Dr. Miller. Dr. Alleman asked if Dr. Miller wished to make a statement. Dr. Miller stated she believed her written response to the complaint was sufficient. After discussion, Dr. Sutton moved the Board find there was no breach, on the part of Dr. Miller, of the standard of care, that Dr. Miller exercised superior professional judgment, and that the complaint should be dismissed for lack of merit. Mr. Bean seconded the motion. The vote was unanimous.

The Board returned to Agenda Item 3 to continue its review of documents produced by licensees who had received the July 15th, 2005, request for documents from the Board. After review and discussion, the Board approved the proposed draft response to each doctor and directed Ms. Kennedy to send the responses. Mr. Bean suggested the doctors should be specifically advised of which document[s] were missing in the response. Dr. Alleman proposed a generic copy of the July 15th, 2005, letter be included and that Ms. Kennedy highlight, the documents not produced. The other members agreed.

The meeting recessed at 11:15 a.m. The meeting reconvened at 11:25 a.m.

Agenda Item 5. The Accusation of Judi D. Kennedy, as Executive Director vs. Amel Y. Afifi, O.D. Dr. Alleman noted Dr. Afifi had retained Shawn Christopher, Esq. to represent her. The Board discussed the proposal of Mr. Christopher that Dr. Afifi sign the stipulation she had verbally agreed to at the Board's May 23rd, 2005, meeting, and that the pending accusation arising out of her failure to sign the stipulation be dismissed. After discussion, the Board directed Ms. Kennedy to prepare a revised stipulation which would provide for [1] a period of three years probation, rather than two; [2] that the probationary period would commence on the date the stipulation was signed by Dr. Afifi and her counsel; and [3] allowing a period of ten [10] days from the date of mailing for Dr. Afifi and her counsel to execute the revised stipulation and return it to the Board.

As to the pending accusation, Ms. Kennedy advised the Board she had assured Mr. Christopher that no further discipline would be imposed until such time as he and Dr. Afifi could appear at a meeting, or until an agreement could be reached. Based on that assurance, Dr. Sutton moved the matter be continued for further consideration at the Board's next regular meeting. Dr. Stewart seconded the motion. The vote was unanimous.

Agenda Item 6. Dr. Sutton recused himself based on a prior business relationship with Dr. Mack. Dr. Alleman stated that Dr. Mack was in violation of the probation imposed by her April 8th, 2005, stipulation with the Board, and further that she was in default under the terms of the probation requiring she attend and complete Court ordered drug and alcohol counseling. Ms. Kennedy advised the Board Dr. Mack, was as of the date of the meeting incarcerated in the Washoe County Jail, charged with miscellaneous offenses, a misdemeanor. Ms. Kennedy continued, stating Dr. Mack's incarceration was a proximate result of her failing and refusing to attend and complete the Court ordered drug and alcohol counseling. The Board discussed its charge to take such disciplinary action as it deems necessary to protect the public. Mr. Bean moved that Dr. Mack's license be suspended until such time as she applies for reinstatement and submits documentation displaying to the Board that she is fit to return to practice. Dr. Stewart seconded the motion. The vote was unanimous. It was determined by the Board the notice of suspension should be hand delivered to Dr. Mack.

Agenda Item 7. Ms. Kennedy presented the Board's 2005-06 budget for approval. Mr. Bean moved the budget be approved as prepared. Dr. Sutton seconded the motion. The vote was unanimous.

Ms. Kennedy advised the Board that in the process of receiving responses to the Board's July 15th, 2005, correspondence, the issue of Extended Clinical Facilities had been raised by several licensees who had received the letter. The Board discussed apparent areas of confusion on the part of licensees practicing and such locations. The Board directed Ms. Kennedy to send letters to each school or college of optometry operating Extended Clinical Facilities in the State of Nevada, requesting they submit a report containing the information required by NRS 636.227.

Dr. Alleman asked for public comment. There was no public comment.

The Board scheduled its next regular meeting for November 16th, 2005. The meeting will be held via telephone conference.

The Board scheduled a regular meeting for January 13th, 2006, in Las Vegas.

Dr. Stewart moved the meeting adjourn. Mr. Bean seconded the motion. The vote was unanimous. The meeting adjourned at 11:50 a.m.